

Boston, was born in the Virgin Islands on March 1, 1927. On September 30, 1960, while domiciled in the Virgin Islands, he made a gift of tangible personal property situated in Kansas. E is considered to have acquired his United States citizenship solely by reason of his birth in the Virgin Islands (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)).

Example (3). N, who acquired United States citizenship by reason of being a native of the Virgin Islands and a resident thereof on June 28, 1932 (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)), made a gift on October 1, 1960, at which time he was domiciled in the Virgin Islands, of tangible personal property situated in Wisconsin. N is considered to have acquired his United States citizenship solely by reason of his birth or residence in the Virgin Islands.

Example (4). P, a former Danish citizen, who on January 17, 1917, resided in the Virgin Islands, made the declaration to preserve his Danish citizenship required by Article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark. Subsequently P acquired United States citizenship when he renounced such declaration before a court of record (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)). P, while domiciled in the Virgin Islands, made a gift on October 1, 1960, of tangible personal property situated in California. P is considered to have acquired his United States citizenship solely by reason of his birth or residence in the Virgin Islands.

Example (5). R, a former French citizen, acquired his United States citizenship through naturalization proceedings in a court located in the Virgin Islands after having qualified for citizenship by residing in the Virgin Islands for 5 years. R, while domiciled in the Virgin Islands, made a gift of tangible personal property situated in Hawaii on October 1, 1960. R is considered to have acquired his United States citizenship solely by reason of his birth or residence within the Virgin Islands.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958, as amended by T.D. 6542, 26 FR 549 Jan. 20 1961; T.D. 7296, 38 FR 34201, Dec. 12, 1973; T.D. 7871, 45 FR 8004, Feb. 6, 1980; T.D. 7910, 48 FR 40372, Sept. 7, 1983]

§ 25.2502-1 Rate of tax.

(a) *Computation of tax.* The rate of tax is determined by the total of all gifts made by the donor during the calendar period and all the preceding calendar periods since June 6, 1932. See § 25.2502-1(c)(1) for the definition of "calendar period" and § 25.2502-1(c)(2) for the definition of "preceding calendar periods."

The following six steps are to be followed in computing the tax:

(1) *First step.* Ascertain the amount of the "taxable gifts" (as defined in § 25.2503-1) for the calendar period for which the return is being prepared.

(2) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar periods" (as defined in § 25.2504-1), considering only those gifts made after June 6, 1932.

(3) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps. See § 25.2702-6 for an adjustment to the total amount of an individual's taxable gifts where the individual's current taxable gifts include the transfer of certain interests in trust that were previously valued under the provisions of section 2702.

(4) *Fourth step.* Compute the tentative tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule in effect at the time the gift (for which the return is being filed) is made.

(5) *Fifth step.* Compute the tentative tax on the aggregate sum of the taxable gifts for each of the preceding calendar periods (as determined in the second step), using the same rate schedule set forth in the fourth step of this paragraph (a).

(6) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar period for which the return is being prepared.

(b) *Rate of tax.* The tax is computed in accordance with the rate schedule in effect at the time the gift was made as set forth in section 2001(c) or corresponding provisions of prior law.

(c) *Definitions.* (1) The term "calendar period" means:

(i) Each calendar year for the calendar years 1932 (but only that portion of such year after June 6, 1932) through 1970;

(ii) Each calendar quarter for the first calendar quarter of the calendar year 1971 through the last calendar quarter of calendar year 1981; or

(iii) Each calendar year for the calendar year 1982 and each succeeding calendar year.

(2) The term "preceding calendar periods" means all calendar periods ending prior to the calendar period for which the tax is being computed.

(d) *Examples.* The following examples illustrate the application of this section with respect to gifts made by citizens or residents of the United States:

Example 1. Assume that in 1955 the donor made taxable gifts, as ascertained under the first step (paragraph (a)(2) of this section), of \$62,500 and that there were no taxable gifts for prior years, with the result that the amount ascertainable under the third step is \$62,500. Under the fourth step a tax is computed on this amount. Reference to the tax rate schedule in effect in the year 1955 discloses that the tax on this amount is \$7,650.

Example 2. A donor makes gifts (other than gifts of future interests in property) during the calendar year 1955 of \$30,000 to A and \$33,000 to B. Two exclusions of \$3,000 each are allowable, in accordance with the provisions of section 2503(b), which results in included gifts for 1955 of \$57,000. Specific exemption was claimed and allowed in a total amount of \$50,000 in the donor's gift tax returns for the calendar years 1934 and 1935 so there remains no specific exemption available for the donor to claim for 1955. The total amount of gifts made by the donor during preceding years, after excluding \$5,000 for each donee for each calendar year in accordance with the provisions of section 1003(b)(1) of the 1939 Code, is computed as follows:

Calendar year 1934	\$120,000
Calendar year 1935	25,000
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Total amount of included gifts for preceding calendar years	145,000

The aggregate sum of the taxable gifts for preceding calendar years is \$115,000, which is determined by deducting a specific exemption of \$30,000 from \$145,000, the total amount of included gifts for preceding calendar years. The deduction from the 1934 and 1935 gifts for the specific exemption cannot exceed \$30,000 for purposes of computing the tax on the 1955 gifts even though a specific exemption in a total amount of \$50,000 was allowed in computing the donor's gift tax liability for 1934 and 1935. (See paragraph (b) of § 25.2504-1.) The computation of the tax for the calendar year 1955 (following the steps set forth in paragraph (a) of this section) is shown below:

(1) Amount of taxable gifts for year	\$57,000
(2) Total amount of taxable gifts for preceding years	115,000
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(3) Total taxable gifts	172,000
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(4) Tax computed on item 3 (in accordance with the rate schedule in effect for the year 1955) ...	31,725

(5) Tax computed on item 2 (using same rate schedule)	18,900
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(6) Tax for year 1955 (item 4 minus item 5)	12,825

Example 3. (i) *Facts.* During the calendar year 1955, H makes the following gifts of present interests:

To his daughter	\$40,000
To his son	5,000
To W, his wife	5,000
To a charitable organization	10,000

The gifts to W qualify for the marital deduction, and, pursuant to the provisions of section 2513 (see § 25.2513-1), H and W consent to treat the gifts to third parties as having been made one-half by each spouse. The amount of H's taxable gifts for preceding years is \$50,000. Only \$25,000 of H's specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed in preceding years. H's remaining specific exemption of \$5,000 is claimed for the calendar year of 1955. See § 25.2521-1. W made no gifts during the calendar year 1955 nor during any preceding calendar year. W claims sufficient specific exemption on her return to eliminate tax liability.

(ii) *Computation of H's tax for the calendar year 1955—(a) H's taxable gifts for year.*

Total gifts of H	\$60,000
Less: Portion of items to be reported by spouse (one-half of total gifts to daughter, son and charity)	27,500
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Balance	32,500
Less: Exclusions (three of \$3,000 each for daughter, wife and charity and one of \$2,500 for son)	11,500
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Total included amount of gifts for year	21,000
Less: Deductions:	
Charity	\$2,000
Marital	2,000
Specific exemption	5,000
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Total deductions	9,000
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Amount of taxable gifts for year ...	12,000

(b) *Computation of tax.* The steps set forth in paragraph (a) of this section are followed.

(1) Amount of taxable gifts for year	\$12,000
(2) Total taxable gifts for preceding years	50,000
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(3) Total taxable gifts (item (1) plus item (2))	62,000
(4) Tax computed on item (3) (in accordance with the rate schedule in effect for the year 1955)	7,545
(5) Tax computed in item (2) (in accordance with the rate schedule in effect for the year 1955)	5,250
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(6) Tax for the calendar year (item (4) minus item (5))	2,295

(iii) *Computation of W's tax for calendar year 1955—(a) W's taxable gifts for year.*

Total gifts of W	0
Less: Portion of items to be reported by spouse	0
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Balance	0
Gifts of spouse to be included	\$27,500
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Total gifts for year	27,500

§ 25.2502-1

26 CFR Ch. I (4-1-08 Edition)

Less: Exclusions (two of \$3,000 each for daughter and charity and one of \$2,500 for son)	\$8,500
Balance	19,000
Less—Deductions:	
Charity	\$2,000
Marital	0
Specific exemption	17,000
Total deductions	\$19,000
Amount of taxable gifts for year	0

(b) *Computation of tax.* Since W had no “taxable gifts” during the year, there is no tax.

Example 4. (i) *Facts.* The facts are the same as in example 3 except that W made outright gifts of \$10,000 to her niece and \$20,000 to H at various times during the year. The amount of taxable gifts made by W in preceding calendar years is \$75,000, and only \$20,000 of her specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed for preceding years. See § 25.2521-1. The remaining specific exemption of \$10,000 is claimed for the calendar year 1955.

(ii) *Computation of H's tax for the calendar year 1955—(a) H's taxable gifts for year.*

Total gifts of H	\$60,000
Less: Portion of items to be reported by spouse	27,500
Balance	32,500
Gifts of spouse to be included	5,000
Total gifts for year	37,500
Less: Exclusions (\$11,500 as shown in example (3) plus \$3,000 exclusion for gift to niece)	14,500
Total included amount of gifts for year	23,000
Deductions:	
Charity	\$2,000
Marital	2,000
Specific exemption	5,000
Total deductions	9,000
Amount of taxable gifts for year	14,000

(b) *Computation of tax.*

(1) Amount of taxable gifts for year	\$14,000
(2) Total taxable gifts for preceding years	50,000
(3) Total taxable gifts (item (1) plus item (2))	64,000
(4) Tax computed on item (3)	7,965
(5) Tax computed on item (2)	5,250
(6) Tax for year (item (4) minus item (5))	2,715

(iii) *Computation of W's tax for the calendar year 1955—(a) W's taxable gifts for year.*

Total gifts of W	\$30,000
Less: Portion of item—to be reported by spouse (one-half of gift to niece)	5,000
Balance	25,000
Gifts of spouse to be included	27,500
Total gifts for year	52,500
Less: Exclusions (four of \$3,000 each for daughter, husband, niece and charity, and one of \$2,500 for son)	\$14,500

Total included amount of gifts for year	38,000
Deductions:	
Charity	\$2,000
Marital	10,000
Specific exemption	10,000
Total deductions	22,000
Amount of taxable gifts for year	\$16,000

(b) *Computation of tax.*

(1) Amount of taxable gifts for year	16,000
(2) Total taxable gifts for preceding years	75,000
(3) Total taxable gifts	91,000
(4) Tax computed on item (3)	13,635
(5) Tax computed on item (2)	10,275
(6) Tax for year (item (4) minus item (5))	3,360

Example 5. A makes gifts (other than gifts of future interests in property) to B in the first quarter of 1971 of \$43,000 and in the second quarter of 1971 of \$60,000. A gave to C in the second quarter of 1971 land valued at \$11,000. The full amount of A's specific exemption provided under section 2521 was claimed and allowed in 1956. In 1966, A made taxable gifts totaling \$21,000 on which gift tax was timely paid and no other taxable gifts were made by A in any other year preceding 1971. The gift tax return due for the first calendar quarter of 1971 was timely filed and the tax paid. With respect to the gifts made to B in 1971, the \$3,000 annual gift tax exclusion provided by section 2503(b) is applied in its entirety against the \$43,000 gift made to B in the first quarter and therefore is not available to offset the \$60,000 gift made to B in the second quarter (See § 25.2503-2(b)). A further \$3,000 annual gift tax exclusion is available, however, to offset the \$11,000 gift made to C in the second quarter of 1971. The computation of the gift tax for the second calendar quarter of 1971 due on August 15, 1971 (following the steps set forth in paragraph (a) of this section) is shown below:

(1) Amount of taxable gifts for the second calendar quarter of 1971 (\$60,000+\$11,000-\$3,000)	\$68,000
(2) Total amount of taxable gifts for preceding calendar periods (\$43,000-\$3,000+\$21,000)	61,000
(3) Total taxable gifts	129,000
(4) Tax computed on item 3 (in accordance with rate schedule in effect for the year 1971)	22,050
(5) Tax computed on item 2 (using same rate schedule)	7,335
(6) Tax for second calendar quarter of 1971 (item 4 minus item 5)	14,715

Example 6. A makes gifts (other than gifts of future interests in property) during the calendar year 1982 of \$160,000 to B and \$100,000 to C. Two exclusions of \$10,000 each are allowable, in accordance with the provisions of section 2503(b), which results in taxable gifts for 1982 of \$240,000. In the first calendar quarter of 1978, A made taxable gifts totaling \$100,000 on which gift tax was paid. For the

Internal Revenue Service, Treasury

§ 25.2503-2

calendar year 1969, A made taxable gifts totaling \$50,000. The full amount of A's specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed in 1968. The computation of the gift tax for the calendar period 1982 (following the steps set forth in paragraph (a) of this section) is shown below.

(1) Amount of taxable gifts for the calendar year 1982, \$240,000.

(2) Total amount of taxable gifts for preceding calendar periods (\$100,000+\$50,000), \$150,000.

(3) Total taxable gifts, \$390,000.

(4) Tax computed on item 3 (in accordance with the rate schedule in effect for the year 1982), \$118,400.

(5) Tax computed on item 2 (using same rate schedule), \$38,800.

(6) Tax for year 1982 (item 4 minus item 5), \$79,600.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958, as amended by T.D. 7238, 37 FR 28725, Dec. 29, 1972; T.D. 7910, 48 FR 40372, Sept. 7, 1983; T.D. 8395, 57 FR 4255, Feb. 4, 1992]

§ 25.2502-2 Donor primarily liable for tax.

Section 2502(d) provides that the donor shall pay the tax. If the donor dies before the tax is paid the amount of the tax is a debt due the United States from the decedent's estate and his executor or administrator is responsible for its payment out of the estate. (See § 25.6151-1 for the time and place for paying the tax.) If there is no duly qualified executor or administrator, the heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritances, bequests, devises, or distributive shares of the donor's estate. If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any "calendar period" (as defined in § 25.2502-1(c)(1)) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar period is joint and several (see § 25.2513-4). As to the personal liability of the donee, see paragraph (b) of § 301.6324-1 of this chapter (Regulations on Procedure and Administration). As to the personal liability of the executor or administrator, see section 3467 of the Revised Statutes (31 U.S.C. 192), which reads as follows:

Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

As used in such section 3467, the word "debt" includes a beneficiary's distributive share of an estate. Thus if an executor pays a debt due by the estate which is being administered by him or distributes any portion of the estate before there is paid all of the gift tax which he has a duty to pay, the executor is personally liable, to the extent of the payment or distribution, for so much of the gift tax as remains due and unpaid.

[T.D. 7238, 37 FR 28726, Dec. 29, 1972, as amended by T.D. 7910, 48 FR 40373, Sept. 7, 1983]

§ 25.2503-1 General definitions of "taxable gifts" and of "total amount of gifts."

The term *taxable gifts* means the "total amount of gifts" made by the donor during the "calendar period" (as defined in § 25.2502-1(c)(1)) less the deductions provided for in sections 2521 (as in effect before its repeal by the Tax Reform Act of 1976), 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The term "total amount of gifts" means the sum of the values of the gifts made during the calendar period less the amounts excludable under section 2503(b). See § 25.2503-2. The entire value of any gift of a future interest in property must be included in the total amount of gifts for the calendar period in which the gift is made. See § 25.2503-3.

[T.D. 7910, 48 FR 40373, Sept. 7, 1983]

§ 25.2503-2 Exclusions from gifts.

(a) Except as provided in paragraph (f) of this section (involving gifts to a noncitizen spouse), the first \$10,000 of gifts made to any one donee during the calendar year 1982 or any calendar year thereafter, except gifts of future interests in property as defined in §§ 25.2503-